
Report to: Licensing & Regulatory Committee **Date of Meeting:** 3rd June 2013

Subject: Provisions contained within the Scrap Metal Dealers Act 2013.

Report of: Director of Built Environment **Wards Affected:** All

Is this a Key Decision? No

Is it included in the Forward Plan?
No

Exempt/Confidential No

Purpose/Summary

To inform Members regarding the provisions contained within the Scrap Metal Dealers Act 2013.

Recommendation(s)

That Members:

- i) note this Report and its contents;
- ii) note that further Reports will be brought forward to up date Members once further Regulations have been issued by the Secretary Of State.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendation:

To give Members an overview of the provisions contained within the Scrap Metal Dealers Act 2013.

What will it cost and how will it be financed?

(A) Revenue Costs

Any costs arising from the proposals contained within the Act will be met from within the proposed regime's licensing fees.

(B) Capital Costs

None.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	The Head of Corporate Legal Services (LD1568/13) has been consulted and any comments have been incorporated into the report.	
Finance	The Head of Finance and ICT (FD2252) has been consulted and notes the Act proposes fees <ul style="list-style-type: none">• will be set locally by each local authority on a cost recovery basis, (with a regard to guidance issued by the Secretary of State outlining the issues when setting the fee and activities the fee can cover)• provide local authorities with the funding they need to administer the regime and to ensure compliance.	
Human Resources	None	
Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

It is currently not known how the provisions will impact on the other work of the Unit.

What consultations have taken place on the proposals and when?

None.

Are there any other options available for consideration?

N/A

Implementation Date for the Decision

N/A

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Background Papers:

- The Scrap Metal Dealers Act 2013.
- The Scrap Metal Dealers Act 1964.
- The Environmental Protection Act 1990.
- The Vehicle (Crime) Act 2001.
- The Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- Report to Licensing and Regulatory Committee, 24th September 2012 – *Provisions contained within the Scrap Metal Dealers Bill 2012.*

1. Background

- 1.1 Members will recall that a previous Report was submitted to them on 24th September 2012 concerning the provisions contained within the Scrap Metal Dealers Bill 2012.
- 1.2 At that Meeting Members RESOLVED that:
 - (1) the report and its contents be noted; and
 - (2) the Director of Built Environment be requested to submit further update reports on the progress of the Scrap Metal Dealers Bill.
- 1.3 The Scrap Metal Dealers Act 2013 (“the Act”) received Royal Assent on 28th February 2013 and is expected to come fully into force from 1st October 2013.
- 1.4 The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator but gives them the power to better regulate these industries by allowing them to refuse to grant a licence to ‘unsuitable’ applicants and a power to revoke licences if the dealer becomes ‘unsuitable’.
- 1.5 The Act provides that an application for a licence must be accompanied by a fee. The fee will be set locally by each local authority on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by the Secretary of State which will outline the issues that should be considered by them when setting the fee and what activities the fee can cover. This fee will be an essential

component of the new regime as it will provide local authorities with the funding they need to administer the regime and to ensure compliance.

- 1.6 The Act aims to raise trading standards across the scrap metal industry by requiring more detailed and accurate records of transactions to be kept. Scrap metal dealers will also be required to verify the identity of those selling metal to them.
- 1.7 The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicles (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme. The Act also revises the definition of 'scrap metal dealer' and 'scrap metal' to ensure they reflect the twenty-first century scrap metal industry.

2. Summary of the Act

- 2.1 The Act defines a "scrap metal dealer" as *a person who is for the time being carrying on business as a scrap metal dealer, whether or not authorised by a licence.*
- 2.2 It further states that "scrap metal" includes:
 - (a) any old, waste or discarded metal or metallic material, and
 - (b) any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.
- 2.3 The following is not considered to be "scrap metal":
 - (a) gold,
 - (b) silver, and
 - (c) any alloy of which 2 per cent or more by weight is attributable to gold or silver.
- 2.4 Provisions allow for the Secretary of State by order to amend these definitions of "scrap metal" for the purposes of this Act.
- 2.5 Section 1 of the Act requires that a scrap metal dealer obtains a licence from the local authority in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale.
- 2.6 Section 2 provides further detail in respect of the licence, including that there will be two types of licence, one for a site and the other for a mobile collector (for those carrying on business otherwise than at a site). A power is provided for the Secretary of State to prescribe the form and content of the licences in Regulations.
- 2.7 A site licence will be issued by the local authority in whose area a scrap metal site is situated and will require all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and

a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.

- 2.8 A mobile collector's licence will authorise the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal. The licence does not permit the collector to collect from any other local authority area; a separate licence would need to be obtained from each local authority in whose area the individual wished to collect in. A licence also does not authorise the licensee to carry on a business at a site within any area - should a collector wish to use a fixed site, they would need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their metals.
- 2.9 A licence will be issued for a period of three years from the date of issue. The Secretary of State will have the power under paragraph 1(4) of the Act to alter the duration of the licence.
- 2.10 Section 3 requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regard to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. The Secretary of State has a power to prescribe in regulations the meaning of relevant offence and relevant enforcement action. It is intended that this will be in line with the criteria used by the Environment Agency when issuing environmental permits under the Environmental Protection Act 1990. The authority must also have regard to any guidance on determining suitability which will be issued from time to time by the Secretary of State, and the authority may consult with other organisations to assist in determining suitability.
- 2.11 Section 3 also allows local authorities, when issuing a licence, to include conditions on it if the licensee or site manager has been convicted of a relevant offence. Subsection (8) specifies the two conditions that can be imposed by local authorities on a licence, namely:
- (a) that the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day;
 - (b) that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 2.12 Section 4 provides the licensing authority with the discretion to revoke a licence on particular grounds, including where the local authority is no longer satisfied that the licensee is a suitable person to carry on the business as a scrap metal dealer. The revocation of a licence can only be carried out by a local authority as the licensing authority.
- 2.13 Section 4 also allows the licensing authority to vary a licence, imposing the conditions stipulated in 2.11 above, if the licensee or a site manager is convicted of a relevant offence.

- 2.14 Section 6 places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority in England and Wales, the Environment Agency, the Natural Resources Body for Wales and to police forces.
- 2.15 Section 7 requires that a register of licences issued under the Act should be maintained by the Environment Agency in England and the Natural Resources Body for Wales in Wales. Local authorities will provide the appropriate information on all licences issued in their geographic areas in order that this register can be updated regularly. The register will be made openly accessible to the public and will include: the name of the authority which issued the licence; the name of the licensee; any trading name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.
- 2.16 Section 10 requires that the licensee display a copy of their licence. For site operators this must be in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil these requirements. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- 2.17 Section 11 places a requirement on scrap metal dealers, site managers and employees who have been delegated the responsibility to do so, to verify the identity of the person they are receiving metal from and the person's address. This verification must be done by reference to data, documents or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency, a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity.
- 2.18 It will be an offence not to obtain and verify the seller's identity, punishable by a fine not exceeding level 3 on the standard scale. The offence will apply to the scrap metal dealer, the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.
- 2.19 Section 13 sets out the record-keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirements of this section is an offence attracting a penalty up to level 5 on the standard scale.
- 2.20 The legislation places a shared enforcement responsibility for this new statutory duty on both Sefton Council and the Police.